

<sup>1</sup> This matter was referred to the undersigned United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1).

be denied and construed as a reply memorandum to Respondent's response to the Court's Order to Show Cause.

Nothing in this order shall be construed as addressing the merits of the underlying petition for writ of habeas corpus. The undersigned will address the merits of the petition in due course.

Accordingly,

**IT IS HEREBY RECOMMENDED** that Petitioner's Motion for Summary Judgment be **DENIED** and construed as a reply memorandum in support of the petition for writ of habeas corpus. [Doc. 17.]

**IT IS FURTHER ORDERED** that Petitioner's Motion requesting reassignment of this case to Judge David D. Noce and not Judge Stephen N. Limbaugh, Jr. is **DENIED**. [Doc. 6.]

The parties are advised that they have fourteen (14) days in which to file written objections to these recommendations pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in a waiver of the right to appeal questions of fact. *See Thompson v. Nix*, 897 F.2d 356 (8th Cir. 1990).

Dated this 13th day of February, 2014.

/s/ Nannette A. Baker  
NANNETTE A. BAKER  
UNITED STATES MAGISTRATE JUDGE